

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

MORGAN CARPENTER, on behalf of himself and others similarly situated,	:	CIVIL ACTION
	:	
Plaintiff,	:	Case No. 2:21-cv-3381-EAS-EPD
	:	
v.	:	Judge: Edmund A. Sargus
	:	
ALLSTATE INSURANCE COMPANY	:	Magistrate Judge Elizabeth P. Deavers
	:	
Defendant.	:	
	:	
	:	
	:	

**ORDER GRANTING MOTION FOR PRELIMINARY APPROVAL OF  
CLASS ACTION SETTLEMENT**

This matter having come before the Court on Plaintiff’s motion for preliminary approval of the proposed class action settlement of the above-captioned case (the “Action”) between Plaintiff Morgan Carpenter, individually and on behalf of the Settlement Class (“Plaintiff”), and Defendant Allstate Insurance Company (“Allstate”) (collectively, the “Parties”) as set forth in the Parties’ Settlement Agreement and Release (the “Agreement,” which memorializes the “Settlement”). Having duly considered the papers, and good cause having been shown, **THE COURT HEREBY FINDS AND ORDERS AS FOLLOWS:**

1. The Court has jurisdiction over the subject matter of the Action, the Parties, and all Settlement Class Members.
2. Unless defined herein, all defined terms in this Order shall have the meanings ascribed to them in the Agreement.

3. The Court has conducted a preliminary evaluation of the Settlement as set forth in the Agreement for fairness, adequacy, and reasonableness. Based on that evaluation, the Court finds that: (i) the Agreement is fair, reasonable, and adequate, and within the range of possible approval; (ii) the Agreement has been negotiated in good faith at arms'-length between experienced attorneys familiar with the legal and factual issues of this case; and (iii) with respect to the forms of notice of the material terms of the Agreement to Settlement Class Members for their consideration and reaction, that notice is appropriate and warranted. Therefore, the Court finds preliminarily that it is likely to be able to approve the proposed Settlement pursuant Rule 23(e)(2) of the Federal Rules of Civil Procedure and grants preliminary approval of the Settlement.

4. The Court, pursuant to Rule 23(a) and Rule 23(b)(3) of the Federal Rules of Civil Procedure, conditionally certifies, for purposes of this Settlement only, the following Settlement Class:

All persons in the United States (i) to whom AGAX Leads made one or more calls (ii) for the purpose of encouraging the purchase of Allstate goods or services (iii) which call(s) were transferred to an Allstate agent(s) (iv) on or after September 23, 2016, up to and including the date of the Preliminary Approval Order of the Settlement (v) that originated from leads sold by Phoenix Leads to Overstep Leads.

Excluded from the Settlement Class are employees of Allstate and employees of any affiliate or subsidiary of Allstate, and any entities in which any of such companies have a controlling interest, as well as all persons who validly opt out of the Settlement Class.

5. The Court appoints Lieff Cabraser Heimann & Bernstein, LLP, and Meyer Wilson Co., LPA, as Class Counsel pursuant to Rule 23 of the Federal Rules of Civil Procedure for purposes of this Settlement only.

6. The Court hereby appoints Morgan Carpenter as Class Representative of the Settlement Class pursuant to Rule 23 of the Federal Rules of Civil Procedure.

7. The Court approves the proposed plan for giving notice to the Settlement Class (i) directly (via Mail Notice using postcards); and (ii) via Website Notice by establishing a Settlement Website (collectively, the “Class Notice”), as more fully described in the Agreement. The Class Notice, in form, method, and content, complies with the requirements of Rule 23 and due process, and constitutes the best notice practicable under the circumstances. The Court hereby directs the Parties and the Settlement Administrator to complete all aspects of the Class Notice no later than **November 15, 2021** from the entry of this Preliminary Approval Order, in accordance with the terms of the Agreement.

8. On **April 6, 2022 at 10:00 a.m.**, in Courtroom 3 of the Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio, or at such other date, time and place (including by videoconference) later set by Court Order, this Court will hold a Final Approval Hearing on the fairness, adequacy and reasonableness of the Agreement and to determine whether (i) final approval of the Settlement embodied by the Agreement should be granted, and (ii) Plaintiff’s application for attorneys’ fees and expenses, and incentive award to the Class Representative, should be granted, and in what amount. No later than **December 15, 2021**, Class Counsel must file papers in support of their application for attorneys’ fees and expenses, and the incentive award to the Class Representative. No later than **March 7, 2022**, which is one-hundred and ten (110) Days<sup>1</sup> after the Notice Deadline, Plaintiff must file papers in support of final approval of the Settlement and respond to any written objections. Defendant may (but is not required to)

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<sup>1</sup> As set forth in the Agreement, “Days” means calendar days, except that, when computing any period of time prescribed or allowed, the day of the act, event, or default from which the designated period of time begins to run shall not be included. Further, when computing any period of time prescribed or allowed, the last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

file papers in support of final approval of the Settlement, so long as it does so by no later than **March 7, 2022**. The Court may continue the Final Approval hearing from time-to-time without further notice to the Settlement Class Members.

8. The Settlement Administrator will file with the Court by no later than **March 25, 2022**, which is ten (10) Days prior to the Final Approval Hearing, proof that Notice was provided to the appropriate State and federal officials pursuant to the Class Action Fairness Act, 28 U.S.C. § 1715.

9. Settlement Class Members who wish to either object to the Settlement or request to be excluded from it must do so by the Objection Deadline and Opt-Out Deadline of **January 15, 2022**, which are both sixty (60) Days after the Notice Deadline. Settlement Class Members may not both object and opt out. If a Settlement Class Member submits both a Request for Exclusion and an objection, the Request for Exclusion will be controlling.

10. To submit a Request for Exclusion (or opt-out), Settlement Class Members must follow the directions in the Class Notice and send a compliant request to the Settlement Administrator at the address designated in the Class Notice by the Opt-Out Deadline. In the Request for Exclusion, the Settlement Class Member must (a) state his or her full name and address; (b) state the telephone number(s) at which the Settlement Class Member was called by AGAX Leads during the Settlement Class Period; (c) state in writing that he or she wishes to be excluded from the Settlement; and (d) personally sign the Request for Exclusion. No Request for Exclusion will be valid unless all of the information described above is included. No Settlement Class Member, or any person acting on behalf of or in concert or participation with that Settlement Class Member, may exclude any other Settlement Class Member from the Settlement Class.

11. If a timely and valid Request for Exclusion is made by a member of the Settlement Class, then that person will not be a Settlement Class Member, and the Agreement and any determinations and judgments concerning it will not bind the excluded person.

12. All Settlement Class Members who do not opt out in accordance with the terms set forth in the Agreement will be bound by all determinations and judgments concerning the Settlement.

13. To object to the Settlement, Settlement Class Members must follow the directions in the Class Notice and file a written Objection with the Court and mail to Class Counsel and Defense Counsel as set forth in the Agreement by the Objection Deadline. In the written Objection, the Settlement Class Member must state (a) his or her name, address, and telephone phone number, and if different, the telephone number(s) at which the Settlement Class Member was called by AGAX Leads during the Settlement Class Period; (b) if represented by counsel, the name, address, and telephone number of the Settlement Class Member's counsel; (c) the specific grounds for the objection, and whether it applies only to the objector, to a specific subset of the Class, or to the entire Class; and (d) a statement of whether the Settlement Class Member objecting intends to appear at the Final Approval Hearing, either with or without counsel. Any documents that the Settlement Class Member wishes the Court to consider must also be attached to the Objection. No Objection will be valid unless all of the information described above is included. The right to object to this Settlement must be exercised individually by an individual Settlement Class Member, not by the act of another person acting or purporting to act in a representative capacity. The Parties will have the right to depose any objector as to the basis and circumstances of his or her objection, and to assess the objector's standing.

14. Any Settlement Class Member who fails to timely object to the Settlement in the manner described in the Class Notice and in accordance with this Order, shall not be permitted to

object to the Settlement at the Final Approval Hearing, shall be foreclosed from seeking any review of the Settlement or Agreement by appeal or other means, shall be deemed to have waived his or her objections, and shall be forever barred from making any such objections in the Action.

15. Any Settlement Class Member who has timely filed and served an Objection may appear at the Final Approval Hearing, either in person (or virtually, if the hearing is not conducted in person) or through an attorney hired at the Settlement Class Member's own expense, to object to the fairness, reasonableness, or adequacy of this Agreement or the Settlement, but only if the Settlement Class Member: (a) files with the Court a Notice of Intention to Appear at the Final Approval Hearing by the Objection Deadline; and (b) served such Notice of Intention to Appear on Class Counsel and Defense Counsel by the Objection Deadline. Any such Notice of Intention to Appear must contain the required specifications set forth in the Agreement. In addition to the foregoing, if a Settlement Class Member or his/her attorney requests permission to speak at the Final Approval Hearing, the written Objection filed must contain a detailed statement of the specific legal and factual basis for each and every objection and a detailed description of any and all evidence the Settlement Class Member may offer at the Final Approval Hearing, including photocopies of any and all exhibits which the Settlement Class Member may introduce at the Final Approval Hearing.

16. All members of the Settlement Class, except those members of the Settlement Class who submit timely Requests for Exclusion, will be bound by all determinations and judgments in the Settlement, whether favorable or unfavorable to the Settlement Class.

17. Accordingly, the following are the deadlines by which certain events must occur:

<b>November 15, 2021</b>  [no later than 45 Days after the date of this order]	Notice Deadline (Settlement Administrator shall send Mail Notice by this date and shall establish the Settlement Website by no later than the posting of the Mail Notice).
<b>December 15, 2021</b>  [no later than 30 Days after the Notice Deadline]	Deadline for Plaintiff's Motion for Attorneys' Fees and Incentive Award.
<b>January 14, 2022</b>  [no later than 60 Days after the Notice Deadline]	Deadline for Class Members to file Objections or submit Requests for Exclusion.
<b>January 14, 2022</b>  [no later than 90 Days after the Notice Deadline]	Deadline for Class Members to submit Claims.
<b>March 7, 2022</b>  [no later than 110 Days after the Notice Deadline ]	Deadline for Plaintiff to file Motion and Memorandum in Support of Final Approval, including responses to any Objections.
<b>February 28, 2022</b>  [5 Days before Final Approval Motion Deadline]	Deadline for Settlement Administrator to provide Class Counsel with a declaration that Class Notice has been disseminated, identifying the number of Requests for Exclusion, and the number of Claims received to date.
<b>March 25, 2022</b>  [10 Days before Final Approval Hearing]	Deadline for Settlement Administrator to file declaration(s) of CAFA Notice.
<b>April 6, 2022 at          10:00 a.m.</b>	Final Approval Hearing
[Not earlier than 130 Days after Notice Deadline]	

18. The Agreement and any and all negotiations, documents, and discussions associated with it, will not be deemed or construed to be an admission or evidence of any violation of any statute, law, rule, regulation, or principle of common law or equity, or of any liability or wrongdoing, by Allstate, or the truth of any of the claims, and evidence relating to the Agreement will not be discoverable or used, directly or indirectly, in any way, whether in the Action or in any other action or proceeding, except for purposes of demonstrating, describing, implementing, or enforcing the terms and conditions of the Agreement, this Order, and the Judgment.

19. If the Settlement is not approved or consummated for any reason whatsoever, the Settlement and all proceedings in connection with the Settlement will be without prejudice to the right of Allstate or the Settlement Class Representative to assert any right or position that could have been asserted if the Agreement had never been reached or proposed to the Court. In such an event, the Parties will return to the *status quo ante* in the Action and the certification of the Settlement Class will be deemed vacated. The certification of the Settlement Class for settlement purposes, or any briefing or materials submitted seeking certification of the Settlement Class, will not be considered in connection with any subsequent class certification decision.

20. Pending the final determination of whether the Settlement should be approved, each Settlement Class Member is hereby enjoined from filing any class action, individual action, or attempting to amend an existing action to assert any claims which would be released pursuant to the Settlement Agreement. If the Settlement is terminated or final approval does not for any reason occur, the injunction will be immediately terminated.

21. Pursuant to the Agreement, \_\_\_\_\_ to is hereby appointed as Settlement Administrator and shall be required to perform all the duties of the Settlement Administrator as set forth in the Agreement and this Order. The Administrator must be nationally-recognized third-



party agent or administrator agreed to by the Parties after a competitive bidding process to help implement and effectuate the terms of this Settlement Agreement. Class Counsel, based on the agreement of the Parties, will propose the selected Settlement Administrator for Court approval

22. Counsel are hereby authorized to use all reasonable procedures in connection with approval and administration of the Settlement that are not materially inconsistent with this Order or the Agreement, including making, without further approval of the Court, minor changes to the form or content of the Class Notice and Claim Form, and other exhibits that they jointly agree are reasonable and necessary. The Court reserves the right to approve the Agreement with such modifications, if any, as may be agreed to by the Parties without further notice to the Settlement Class Members.

**IT IS SO ORDERED.**

**DATED: October 1, 2021**

**s/Edmund A. Sargus, Jr.**  
**EDMUND A. SARGUS, JR.**  
**UNITED STATES DISTRICT JUDGE**